IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 12.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.146 of 2006

Chinnaiyan ... Petitioner

Vs.

1. The Secretary to Government,
Prohibition & Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600009.

2. The District Magistrate
and District Collector,
Tiruchirappalli District,
Tiruchirappalli. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records relating to the detention order made in Cr.M.P. No.73/2005, dated 28.12.2005, passed by the second respondent, set aside the same, direct the respondents to produce the body of the detenu by name Chinnaiyan, S/o.Sebastian, aged about 38 years, now confined in Central Prison, Tiruchirappalli, before the Court and set him at liberty.

For Petitioner : Mr. A.K.S.Thahir
For Respondents : Mr. Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the impugned order of detention dated 28.12.2005, detaining him as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner submitted that there is variation in translation between the grounds of detention in English and Tamil. According to him, the variation as found in para No.3 of the grounds of detention, both in English and Tamil, goes to the root of the matter and in view of the same, the detention order is liable to be quashed.

4. In paragraph No.3 of the grounds of detention, the Detaining Authority has stated as follows,

> " ... The reason for the arrest was informed to Thiru Chinnaiyan and all matters relating his arrest was informed to his relative, searched him physically and handed over to the para."

In the Tamil version, it is mentioned as follows:-

> " .... கைதுக்கான காரணம் திரு, விஜயகாந்துக்கு தெரிவித்தும். கைதுக்கான அனைத்து தகவல்களையும் அவரது உறவினருக்கு தெரிவிக்கப்பட்டும். திரேக சோதனை செய்து பாரா வசம் ஒப்படைக்கப்பட்டது, ..."

5. It is not in dispute that the detenu, who was detained under Act 14 of 1982 is Chinnaiyan and not Vijayakanth as stated in the Tamil version. It is relevant to note that in the representation, dated 01.02.2006, made by one Anand, friend of the detenu, it is specifically stated in paragraph No.28 as follows:-

> " தடுப்பு காவல் காரணங்கள் தமிழில் கைது செய்வதற்கான காரணம் சின்னையனுக்கு தெரிவிக்கப்பட்டது என இல்லை, விஜயகாந்துக்கு தெரிவிக்கப்பட்டதாக உள்ளது, சுரியான நகல் கொடுக்கவில்லை, "

6. While considering the said representation, the Government, in their Reply dated 21.02.2006, has admitted the mistake and explained that it is only a typographical error. We have perused the English and Tamil version of the grounds of detention, the representation dated 01.02.2006 and the reply of the Government dated 21.2.2006. Inasmuch as in the Tamil version of the grounds of detention, it is specifically stated that the reason for arrest was intimated to one Vijayakanth, who has nothing to do with the occurrence/case, we are of the view that the said wrong description goes to the root of the matter, thereby vitiating the detention order. Though the learned Additional Public Prosecutor has submitted that the said mistake, viz., mentioning the name Vijayakanth instead of Chinnaiyan, is trivial in nature, in view of the fact that the wrong description goes to the root of the matter, we are unable to accept the said contention.

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7. Consequently, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed and the detenu is directed to be set at liberty forthwith unless he is required in connection with any other case or cause.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector,
Tiruchirappalli District.

3. The Superintendent,
Central Prison, Trichy.
(In duplicate for service on the detenu)

4. The Joint Secretary to Govt.,
Public (Law & Order),
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

1 cc To Mr.A.K.S.Thahir, Advocate, SR.24031.

HCP No.146 of 2006.

AMB(CO)
RVL 20.06.2006

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